



भारत का राजपत्र The Gazette of India

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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 15.5.2000:—

BILL No. 93 OF 2000

A Bill to provide for conservation of Biological Diversity, sustainable use of its components and equitable sharing of the benefits arising out of the use of biological resources and for matters connected therewith or incidental thereto.

WHEREAS India is rich in biological diversity and associated traditional and contemporary knowledge system relating thereto;

AND WHEREAS India is a party to the United Nations Convention on Biological Diversity signed at Rio de Janeiro on the 5th day of June, 1992;

AND WHEREAS the said Convention came into force on the 29th December, 1993;

AND WHEREAS the said Convention reaffirms the sovereign rights of the States over their biological resources;

AND WHEREAS the said Convention has the main objective of conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits arising out of utilisation of genetic resources;

AND WHEREAS it is considered necessary to provide for conservation, sustainable utilisation and equitable sharing of benefits arising out of utilisation of genetic resources and also to give effect to the said Convention;

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the Biological Diversity Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “benefit claimers” means the conservers of biological resources, their by-products, creators and holders of knowledge and information relating to the use of such biological resources, innovations and practices associated with such use and application;

(b) “biological diversity” means the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco-systems;

(c) “biological resources” means plants, animals and micro organisms or parts thereof, their genetic material and by-products with actual or potential use or value but does not include human genetic material;

(d) “bio-survey and bio-utilisation” means survey or collection of species, sub-species, genes, components and extracts of biological resource for any purpose and includes characterisation, inventorisation and bioassay;

(e) “Chairperson” means the Chairperson of the National Biodiversity Authority or, as the case may be, of the State Biodiversity Board;

(f) “equitable benefit sharing” means sharing of benefits as determined by the National Biodiversity Authority under section 21;

(g) “local bodies” means Panchayats and Municipalities, by whatever name called, within the meaning of clause (1) of article 243B and clause (1) of article 243Q of the Constitution and in the absence of any Panchayats or Municipalities, institutions of self-government constituted under any Central Act or State Act;

(h) “member” means member of the National Biodiversity Authority or a State Biodiversity Board and includes the Chairperson;

(i) “National Biodiversity Authority” means the National Biodiversity Authority established under section 8;

(j) “prescribed” means prescribed by rules made under this Act;

(k) “regulations” means regulations made under this Act;

(l) “research” means study or systematic investigation of any biological resource or technological application, that uses biological systems, living organisms or derivatives thereof to make or modify products or processes for any use;

(m) “State Biodiversity Board” means the State Biodiversity Board established under section 22;

(n) “sustainable use” means the use of components of biological diversity in such manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations.

CHAPTER II

REGULATION OF BIOLOGICAL DIVERSITY

3. (1) No person referred to in sub-section (2) shall without previous approval of the National Biodiversity Authority obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.

Certain persons not to undertake Biodiversity related activities without approval of National Biodiversity Authority

(2) The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely:—

(a) a person who is not a citizen of India,

(b) a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act, 1961;

(c) a body corporate, association or organisation—

(i) not incorporated or registered in India; or

(ii) incorporated or registered in India under any law for the time being in force which has any non-Indian participation in its share capital or management.

4. No person shall without the previous approval of the National Biodiversity Authority, transfer the results of any research relating to any biological resources occurring or obtained from India for monetary consideration or otherwise to any person who is not a citizen of India or a body corporate or organisation which is not registered or incorporated in India or which has any non-Indian participation in its share capital or management.

Results of research not to be transferred to certain persons without approval of National Biodiversity Authority

Explanation.—For the purposes of this section, "transfer" does not include publication of research papers or dissemination of knowledge in any seminar or workshop, if such publication is as per the guidelines issued by the Central Government.

5. (1) The provisions of sections 3 and 4 shall not apply to collaborative research projects involving transfer or exchange of biological resources or information relating thereto between institutions, including Government sponsored institutions of India, and such institutions in other countries, if such collaborative research projects satisfy the conditions specified in sub-section (3).

Sections 3 and 4 not to apply to certain collaborative research projects.

(2) All collaborative research projects, other than those referred to in sub-section (1) which are based on agreements concluded before the commencement of this Act and in force shall, to the extent the provisions of agreement are inconsistent with the provisions of this Act or any guidelines issued under clause (a) of sub-section (3), be void.

(3) For the purposes of sub-section (1) collaborative research projects shall,—

(a) conform to the policy guidelines issued by the Central Government in this behalf;

(b) be approved by the Central Government.

6. (1) No person shall apply for any intellectual property right by whatever name called in or outside India for any invention based on any research or information on a biological resource obtained from India without obtaining the previous approval of the National Biodiversity Authority before making such application:

Application for intellectual property rights not to be made without approval of National Biodiversity Authority

Provided that if a person applies for a patent, permission of the National Biodiversity Authority may be obtained after the acceptance of the patent but before the sealing of the patent by the patent authority concerned.

(2) The National Biodiversity Authority may, while granting the approval under this section, impose benefit sharing fee or royalty or both or impose conditions including the sharing of financial benefits arising out of the commercial utilisation of such rights.

(3) The provisions of this section shall not apply to any person making an application for any rights under any law relating to protection of plant varieties enacted by Parliament.

(4) Where any right is granted under sub-section (3), the concerned authority granting such right shall endorse a copy of such document granting the right to the National Biodiversity Authority.

Prior intimation to State Biodiversity Board for obtaining biological resource for certain purposes

7. No person who is a citizen of India or a body corporate, association or organisation which is registered in India shall obtain any biological resource for commercial utilisation or bio-survey and bio-utilisation except after giving prior intimation to the State Biodiversity Board concerned:

Provided that the provisions of this section shall not apply to the local people and communities of the area, including *vaid*s and *hakims*, who have been practising indigenous medicine.

CHAPTER III

NATIONAL BIODIVERSITY AUTHORITY

Establishment of National Biodiversity Authority

8. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a body to be called the National Biodiversity Authority.

(2) The National Biodiversity Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) **The head office of the National Biodiversity Authority shall be at Chennai and the National Biodiversity Authority may, with the previous approval of the Central Government, establish offices at other places in India.**

(4) The National Biodiversity Authority shall consist of the following Members, namely:—

(a) a Chairperson, who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the Central Government;

(b) three members *ex officio* to be appointed by the Central Government, one representing the Ministry of Tribal Affairs and two representing the Ministry of Environment and Forests of whom one shall be the Additional Inspector General of Forests or the Inspector General of Forests;

(c) five members *ex officio* to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with—

(i) Agricultural Research and Education,

(ii) Biotechnology;

(iii) Ocean Development;

(iv) Agriculture and Cooperation;

(v) Indian Systems of Medicine and Homoeopathy;

(d) five non-official members to be appointed from amongst specialists and scientists having special knowledge of, or experience in, matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources, representatives of industry, conservers, creators and knowledge holders of biological resources.

9. The term of office and conditions of service of the Chairperson and the others members other than *ex officio* members shall be such as may be prescribed by the Central Government.

Conditions of service of Chairperson and Members

10. The Chairperson shall be the Chief Executive of the National Biodiversity Authority and shall exercise such powers and perform such duties, as may be prescribed.

Chairperson to be Chief Executive of National Biodiversity Authority

11. The Central Government may remove from the National Biodiversity Authority any member who, in its opinion has,—

Removal of members

(a) been adjudged as an insolvent; or

(b) been convicted of an offence which involves moral turpitude; or

(c) become physically or mentally incapable of acting as a member; or

(d) so abused his position as to render his continuance in office detrimental to the public interest; or

(e) acquired such financial or other interest as is likely to affect prejudicially his functions as a member.

12. (1) The National Biodiversity Authority shall meet at such time and place and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be prescribed.

Meetings of National Biodiversity Authority

(2) The Chairperson of the National Biodiversity Authority shall preside at the meetings of the National Biodiversity Authority.

(3) If for any reason the Chairperson is unable to attend any meeting of the National Biodiversity Authority, any member of the National Biodiversity Authority chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come before any meeting of the National Biodiversity Authority shall be decided by a majority of the votes of the members present and voting and in the event of equality of votes, the Chairperson or, in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Every member who is in any way, whether directly, indirectly or personally, concerned or interested in a matter to be decided at the meeting shall disclose the nature of his concern or interest and after such disclosure, the member concerned or interested shall not attend that meeting.

(6) No act or proceeding of the National Biodiversity Authority shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of the National Biodiversity Authority; or

(b) any defect in the appointment of a person acting as a member; or

(c) any irregularity in the procedure of the National Biodiversity Authority not affecting the merits of the case.

13. (1) The National Biodiversity Authority may constitute a committee to deal with agro-biodiversity.

Committees of National Biodiversity Authority

Explanation.—For the purposes of this sub-section “agro-biodiversity” means biological diversity of agriculture related species and their wild relatives.

(2) Without prejudice to the provisions of sub-section (1), the National Biodiversity Authority may constitute such number of committees as it deems fit for the efficient discharge of its duties and performance of its functions under this Act.

(3) A committee constituted under this section, shall co-opt such number of persons, who are not members of the National Biodiversity Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(4) The persons appointed as members of the committee under sub-section (2) shall be entitled to receive such allowances or fees for attending the meetings of the committee as may be fixed by the Central Government.

Officers and employees of National Biodiversity Authority

14. (1) The National Biodiversity Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and conditions of service of such officers and other employees of the National Biodiversity Authority shall be such as may be specified by regulations.

Authentication of orders and decisions of National Biodiversity Authority.

15. All orders and decisions of the National Biodiversity Authority shall be authenticated by the signature of the Chairperson or any other member authorised by the National Biodiversity Authority in this behalf and all other instruments executed by the National Biodiversity Authority shall be authenticated by the signature of an officer of the National Biodiversity Authority authorised by it in this behalf.

Delegation of powers

16. The National Biodiversity Authority may, by general or special order in writing, delegate to any member, officer of the National Biodiversity Authority or any other person subject to such conditions, if any, as may be specified in the order, such of the powers and functions under the Act (except the power to settle disputes under section 50 and the power to make regulations under section 62) as it may deem necessary.

Expenses of National Biodiversity Authority to be defrayed out of the Consolidated Fund of India.

17. The salaries and allowances payable to the members and the administrative expenses of the National Biodiversity Authority including salaries, allowances and pension payable to, or in respect of, the officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

CHAPTER IV

FUNCTIONS AND POWERS OF THE NATIONAL BIODIVERSITY AUTHORITY

Functions of National Biodiversity Authority

18. (1) It shall be the duty of the National Biodiversity Authority to regulate activities referred to in sections 3, 4 and 6 and by regulations issue guidelines for access to and equitable benefit sharing.

(2) The National Biodiversity Authority may grant approval for undertaking any activity referred to in sections 3, 4 and 6.

(3) The National Biodiversity Authority may—

(a) advise the Central Government on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of benefits arising out of the utilisation of biological resources;

(b) advise the State Governments in the selection of areas of biodiversity importance to be notified as heritage sites and measures for the management of such heritage sites;

(c) perform such other functions as may be necessary to carry out the provisions of this Act.

(4) The National Biodiversity Authority may, on behalf of the Central Government, take any measures necessary to oppose the grant of intellectual property rights in any country outside India on any biological resource obtained from India or knowledge associated with such biological resource which is derived from India.

CHAPTER V

APPROVALS BY THE NATIONAL BIODIVERSITY AUTHORITY

19. (1) Any person referred to in sub-section (2) of section 3 who intends to obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation or transfer the results of any research relating to biological resources occurring in, or obtained from, India, shall make application in such form and payment of such fees as may be prescribed, to the National Biodiversity Authority.

Approval by National Biodiversity Authority for undertaking certain activities

(2) Any person who intends to apply for a patent or any other form of intellectual property protection whether in India or outside India may make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority.

(3) On receipt of an application under sub-section (1) or sub-section (2), the National Biodiversity Authority may, after making such enquiries as it may deem fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to any regulations made in this behalf and subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing reject the application.

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

20. (1) No person who has been granted approval under section 19 shall transfer any biological resource or knowledge associated thereto which is the subject matter of the said approval except with the permission of the National Biodiversity Authority.

Transfer of biological resource or knowledge

(2) Any person who intends to transfer any biological resource or knowledge associated thereto referred to in sub-section (1) shall make an application in such form and in such manner as may be prescribed to the National Biodiversity Authority

(3) On receipt of an application under sub-section (2), the National Biodiversity Authority may, after making such enquiries as deemed fit and if necessary after consulting an expert committee constituted for this purpose, by order, grant approval subject to such terms and conditions as it may deem fit, including the imposition of charges by way of royalty or for reasons to be recorded in writing reject the application:

Provided that no such order for rejection shall be made without giving an opportunity of being heard to the person affected.

(4) The National Biodiversity Authority shall give public notice of every approval granted by it under this section.

21. (1) The National Biodiversity Authority shall while granting approvals under section 19 or section 20 ensure that the terms and conditions subject to which approval is granted secures equitable sharing of benefits arising out of the use of accessed biological resources, their by-products, innovations and practices associated with their use and applications and knowledge relating thereto in accordance with mutually agreed terms and conditions between the person applying for such approval, local bodies concerned and the benefit claimers.

Determination of equitable benefit sharing by National Biodiversity Authority

(2) The National Biodiversity Authority shall subject to any regulations made in this behalf determine the benefit sharing which shall be given effect in all or any of the following manner, namely:-

(a) grant of joint ownership of intellectual property rights to the National Biodiversity Authority, or where benefit claimers are identified, to such benefit claimers;

(b) transfer of technology;

(c) location of production, research and development units in such areas which will facilitate better living standards to the benefit claimers;

(d) association of Indian scientists, benefit claimers and the local people with research and development in biological resources and bio-survey and bio-utilisation;

(e) setting up of venture capital fund for aiding the cause of benefit claimers;

(f) payment of monetary compensation and other non-monetary benefits to the benefit claimers as the National Biodiversity Authority may deem fit.

(3) Where any amount of money is ordered by way of benefit sharing, the National Biodiversity Authority may direct the amount to be deposited in the National Biodiversity Fund:

Provided that where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit.

(4) For the purposes of this section, the National Biodiversity Authority shall, in consultation with the Central Government, by regulations, frame guidelines.

CHAPTER VI

STATE BIODIVERSITY BOARD

Establishment
of State
Biodiversity
Board.

22. (1) With effect from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a Board for the State to be known as the _____ (name of the State) Biodiversity Board.

(2) Notwithstanding anything contained in this section, no State Biodiversity Board shall be constituted for a Union territory and in relation to a Union territory, the National Biodiversity Authority shall exercise the powers and perform the functions of a State Biodiversity Board for that Union territory:

Provided that in relation to any Union territory, the National Biodiversity Authority may delegate all or any of its powers or functions under this sub-section to such person or group of persons as the Central Government may specify.

(3) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(4) The Board shall consist of the following members, namely:—

(a) a Chairperson who shall be an eminent person having adequate knowledge and experience in the conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits, to be appointed by the State Government;

(b) not more than five *ex officio* members to be appointed by the State Government to represent the Departments of the State Government;

(c) not more than five members to be appointed from amongst experts in matters relating to conservation of biological diversity, sustainable use of biological resources and equitable sharing of benefits arising out of the use of biological resources.

(5) The head office of the State Biodiversity Board shall be at such place as the State Government may, by notification in the Official Gazette, specify.

23. The functions of the State Biodiversity Board shall be to,—

Functions of
State Bio-
diversity Board.

(a) advise the State Government, subject to any guidelines issued by the Central Government, on matters relating to the conservation of biodiversity, sustainable use of its components and equitable sharing of the benefits arising out of the utilisation of biological resources;

(b) regulate by granting of approvals or otherwise requests for commercial utilization or bio-survey and bio-utilisation of any biological resource by Indians;

(c) perform such other functions as may be necessary to carry out the provisions of this Act or as may be prescribed by the State Government.

24. (1) Any citizen of India or a body corporate, organisation or association registered in India intending to undertake any activity referred to in section 7 shall give prior intimation in such form as may be prescribed by the State Government to the State Biodiversity Board.

Power of State
Biodiversity
Board to restrict
certain activities
violating the
objectives of
conservation,
etc.

(2) On receipt of an intimation under sub-section (1), the State Biodiversity Board may, in consultation with the local bodies concerned and after making such enquires as it may deem fit by order, prohibit or restrict any such activity if it is of opinion that such activity is detrimental or contrary to the objectives of conservation and sustainable use of biodiversity or equitable sharing of benefits arising out of such activity:

Provided that no such order shall be made without giving an opportunity of being heard to the person affected.

25. The provisions of sections 9 to 17 shall apply to a State Biodiversity Board and shall have effect subject to the following modifications, namely:—

Provisions of
sections 9 to 17
to apply with
modifications to
State
Biodiversity
Board.

(a) references to the Central Government shall be construed as references to the State Government;

(b) references to the National Biodiversity Authority shall be construed as references to the Board;

(c) reference to the Consolidated Fund of India shall be construed as reference to the Consolidated Fund of the State.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT OF NATIONAL BIODIVERSITY AUTHORITY

26. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the National Biodiversity Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

National
Biodiversity
Fund.

27. (1) There shall be constituted a Fund to be called the National Biodiversity Fund and there shall be credited thereto—

Application of
National
Biodiversity
Fund

(a) any grants and loans made to the National Biodiversity Authority under section 26;

(b) all charges and royalties received by the National Biodiversity Authority under this Act; and

(c) all sums received by the National Biodiversity Authority from such other sources as may be decided upon by the Central Government.

(2) The Fund shall be applied for—

(a) channeling benefits to the benefit claimers;

(b) conservation of biological resources and development of areas from where such biological resources or knowledge associated thereto has been accessed;

(c) socio economic development of areas referred to in clause (b) in consultation with the local bodies concerned.

Annual report
of National
Biodiversity
Authority.

28. The National Biodiversity Authority shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and furnish, to the Central Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

Budget,
accounts and
audit.

29. (1) The National Biodiversity Authority shall prepare a budget, maintain proper accounts and other relevant records (including the accounts and other relevant records of the National Biodiversity Fund) and prepare an annual statement of account in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the National Biodiversity Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the National Biodiversity Authority to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the National Biodiversity Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the National Biodiversity Authority.

(4) The accounts of the National Biodiversity Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government.

Annual report
to be laid
before
Parliament.

30. The Central Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before each House of Parliament.

CHAPTER VIII

FINANCE, ACCOUNTS AND AUDIT OF STATE BIODIVERSITY BOARD

Grant of money
by State
Government to
State Bio-
diversity Board.
State
Biodiversity
Fund.

31. The State Government may, after due appropriation made by the State Legislature by law in this behalf, pay to the State Biodiversity Board by way of grants or loans such sums of money as the State Government may think fit for being utilized for the purposes of this Act.

32. (1) There shall be constituted a Fund to be called the State Biodiversity Fund and there shall be credited thereto—

(a) any grants and loans made to the State Biodiversity Board under section 31;

(b) any grants or loans made by the National Biodiversity Authority;

(c) all sums received by the State Biodiversity Board from such other sources as may be decided upon by the State Government.

(2) The State Biodiversity Fund shall be applied for—

(a) the management and conservation of heritage sites;

(b) compensating or rehabilitating any section of the people economically affected by restriction imposed under section 37;

(c) conservation of biological resources;

(d) socio-economic development of areas from where such biological resources or knowledge associated thereto has been accessed subject to any approval granted under section 24, in consultation with the local bodies concerned;

(e) meeting the expenses incurred for purposes authorized by this Act.

33. The State Biodiversity Board shall prepare, in such form and at such time each financial year as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Annual report of State Biodiversity Board.

34. The accounts of the State Biodiversity Board shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the National Biodiversity Authority shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

Audit of accounts of State Biodiversity Board.

35. The State Government shall cause the annual report and auditor's report to be laid, as soon as may be after they are received, before the House of State Legislature.

Annual report of State Biodiversity Board to be laid before State Legislature.

CHAPTER IX

DUTIES OF THE CENTRAL AND THE STATE GOVERNMENTS

36. (1) The Central Government shall develop national strategies, plans, programmes for the conservation and sustainable use of biological diversity including measures for identification and monitoring areas rich in biological resources, promotion of *insitu* conservation and *exsitu* conservation of biological resources, incentives for research, training, public education to increase awareness with respect to biodiversity.

Central Government to develop National strategies, plans, etc., for conservation, etc., of biological diversity.

(2) The Central Government shall, as far as practicable wherever it deems appropriate, integrate the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

(3) The Central Government shall undertake measures,—

(i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimise such effects and where appropriate provide for public participation in such assessment;

(ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology likely to have adverse impact on the conservation and sustainable use of biological diversity and human health.

(4) The Central Government shall endeavour to respect and protect the knowledge of local people relating to biological diversity, as recommended by the National Biodiversity Authority through such measures, which may include registration of such knowledge at the local, State or national levels, and other measures for protection, including *sui generis* system.

Explanation.—For the purposes of this section,—

(a) “*exsitu* conservation” means the conservation of components of biological diversity outside their natural habitats;

(b) “*insitu* conservation” means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

37. (1) Without prejudice to any other law for the time being in force, the State Government may from time to time in consultation with the local bodies, notify in the Official Gazette, areas of biodiversity importance as biodiversity heritage sites under this Act.

Biodiversity heritage sites.

(2) The State Government, in consultation with the Central Government, may frame rules for the management and conservation of all the heritage sites.

(3) The State Government shall frame schemes for compensating or rehabilitating any person or section of people economically affected by such notification.

Power of
Central
Government to
notify threa-
tened species.

38. Without prejudice to the provisions of any other law for the time being in force, the Central Government may from time to time notify, any species which is on the verge of extinction or likely to become extinct in the near future as a threatened species and prohibit or regulate collection thereof for any purpose and take appropriate steps to rehabilitate and preserve those species.

Power of
Central
Government
to designate
repositories.

39. (1) The Central Government may in consultation with the National Biodiversity Authority, designate institutions as repositories under this Act for different categories of biological resources.

(2) The repositories shall keep in safe custody the biological material including voucher specimens deposited with them.

(3) Any new taxon discovered shall be notified to the repositories or any institution designated for this purpose and deposit the voucher specimens with such repository or institution.

Power of
Central
Government to
exempt certain
biological
resources.

40. Notwithstanding anything contained in this Act, the Central Government may in consultation with the National Biodiversity Authority, by notification in the Official Gazette, declare that the provisions of this Act shall not apply to any items, including biological resources normally traded as commodities.

CHAPTER X

BIODIVERSITY MANAGEMENT COMMITTEES

Constitution of
Biodiversity
Management
Committees.

41. (1) Every local body shall constitute a Biodiversity Management Committee within its area for the purpose of promoting conservation, sustainable use and documentation of biological diversity including preservation of habitats, conservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals and micro organisms and chronicling of knowledge relating to biological diversity.

(2) The National Biodiversity Authority and the State Biodiversity Boards shall consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and knowledge associated with such resources occurring within the territorial jurisdiction of the Biodiversity Management Committee.

(3) The Biodiversity Management Committees may levy charges by way of collection fee from any person for accessing or collecting any biological resource from areas falling within its territorial jurisdiction.

CHAPTER XI

LOCAL BIODIVERSITY FUND

Grants to Local
Biodiversity
Fund.

42. The State Government may, after due appropriation made by State Legislature by law in this behalf, pay to the Local Biodiversity Funds by way of grants or loans such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

Constitution of
Local Bio-
diversity Fund.

43. (1) There shall be constituted a Fund to be called the Local Biodiversity Fund at every area notified by the State Government where any institution of self-government is functioning and there shall be credited thereto—

(a) any grants and loans made under section 42;

(b) any grants or loans made by the National Biodiversity Authority;

(c) any grants or loans made by the State Biodiversity Boards;

(d) fee referred to in sub-section (3) of section 41 received by the Biodiversity Management Committee;

(e) all sums received by the Local Biodiversity Fund from such other sources as may be decided upon by the State Government.

44. (1) Subject to the provisions of sub-section (2), the management and the custody of the Local Biodiversity Fund and the purposes for which such Fund shall be applied as may be prescribed by the State Government.

Application of Local Biodiversity Fund.

(2) The Fund shall be used for conservation of biodiversity in the areas falling within the jurisdiction of the concerned local body and for the benefit of the community in so far such use is consistent with conservation of biodiversity.

45. The person holding the custody of the Local Biodiversity Fund shall prepare, in such form and during each financial year at such time as may be prescribed, its annual report, giving a full account of its activities during the previous financial year, and submit a copy thereof to the State Government.

Annual report of Bio-diversity Management Committees.

46. The accounts of the Local Biodiversity Fund shall be maintained and audited in such manner as may, in consultation with the Accountant-General of the State, be prescribed and the person holding the custody of the Local Biodiversity Fund shall furnish, to the State Government, before such date as may be prescribed, its audited copy of accounts together with auditors' report thereon.

Audit of accounts of Biodiversity Management Committees.

47. The State Government shall cause the annual report and auditors' report to be laid, as soon as may be after they are received, before the House of State Legislature.

Annual report of Biodiversity Management Committee to be laid before State Legislature.

CHAPTER XII

MISCELLANEOUS

48. (1) Without prejudice to the foregoing provisions of this Act, the National Biodiversity Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

National Biodiversity Authority to be bound by the directions given by Central Government.

Provided that the National Biodiversity Authority shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

49. (1) Without prejudice to the foregoing provisions of this Act, the State Biodiversity Board shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the State Government, may give in writing to it from time to time:

Power of State Government to give directions.

Provided that the State Biodiversity Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the State Government whether a question is one of policy or not shall be final.

50. (1) If a dispute arises between the National Biodiversity Authority and a State Biodiversity Board, the said Authority or the Board, as the case may be, may prefer an appeal to the Central Government within such time as may be prescribed.

Settlement of disputes between State Biodiversity Boards.

(2) Every appeal made under sub-section (1) shall be in such form as may be prescribed by the Central Government.

(3) The procedure for disposing of an appeal shall be such as may be prescribed by the Central Government:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

(4) If a dispute arises between the State Biodiversity Boards, the Central Government shall refer the same to the National Biodiversity Authority.

(5) While adjudicating any dispute under sub-section (4), the National Biodiversity Authority shall be guided by the principles of natural justice and shall follow such procedure as may be prescribed by the Central Government.

(6) The National Biodiversity Authority shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

5 of 1908.

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*;
- (h) any other matter which may be prescribed.

(7) Every proceeding before the National Biodiversity Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code and the National Biodiversity Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

Members, officers, etc., of National Biodiversity Authority and State Biodiversity Board deemed to be public servants.

51. All members, officers and other employees of the National Biodiversity Authority or the State Biodiversity Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of action taken in good faith.

52. No suit, prosecution or other legal proceedings shall lie against the Central Government or the State Government or any officer of the Central Government or the State Government or any member, officer or employee of the National Biodiversity Authority or the State Biodiversity Board for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Penalties.

53. (1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 3, section 4 or section 6 shall be punishable with imprisonment for a term which may extend to five years, or with fine which may extend to ten lakh rupees, or with both.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of section 7 or any order made under sub-section (1) of section 24 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five lakh rupees, or with both.

Penalty for contravention of directions or orders of Central Government, State Government, National Biodiversity Authority and State Biodiversity Boards.

54. If a person contravenes any direction given or order made by the Central Government, the State Government, the National Biodiversity Authority or the State Biodiversity Board for which no punishment has been separately provided under this Act, he shall be punished with a fine which may extend to one lakh rupees and in case of a second or subsequent offence, with fine which may extend to two lakh rupees and in the case of continuous contravention with additional fine which may extend to two lakh rupees everyday during which the default continues.

55. (1) Where an offence or contravention under this Act has been committed by a company, every person who at the time the offence or contravention was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence or contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence or contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence or contravention under this Act has been committed by a company and it is proved that the offence or contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence or contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

56. The offences under this Act shall be cognizable and non-bailable.

Offences to be cognizable and non-bailable.

57. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Act to have overriding effect.

58. The Central Government may give directions to any State Government as to the carrying into execution in the State of any of the provisions of this Act or of any rule or regulation or order made thereunder.

Power of Central Government to give directions to State Government.

59. No court shall take cognizance of any offence under this Act or rules and regulations made thereunder save on a complaint made by the National Biodiversity Authority or State Biodiversity Board, as the case may be.

Cognizance of offences.

60. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) terms and conditions of service of the Chairperson and member under section 9;

(b) powers and duties of the Chairperson under section 10;

(c) procedure under sub-section (1) of section 12 in regard to transaction of business at meetings;

(d) form of application and payment of fees for undertaking certain activities under sub-section (1) of section 19;

(e) form of application and the manner for transfer of biological resource or knowledge under sub-section (2) of section 20;

(f) form in which, and the time of each financial year at which, the annual report shall be prepared under section 28;

(g) form in which the annual statement of account shall be prepared under section 29;

(h) the time within which and the form in which, an appeal may be preferred, the procedure for disposing of an appeal and the procedure for adjudication, under section 50;

(i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this section and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Power of State Government to make rules.

61. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which the prior intimation shall be given under sub-section (1) of section 24;

(b) the form in which, and the time of each financial year at which, the annual report shall be prepared under section 33;

(c) management and conservation of national heritage sites under section 37;

(d) the purposes for which local Biodiversity Fund shall be applied under sub-section (1) of section 44;

(e) any other matter which is to be, or may be, specified.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Power to make regulations.

62. The National Biodiversity Authority shall with the previous approval of the Central Government by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.

Power to remove difficulties.

63. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Biodiversity encompasses the variety of all life on earth. India is one of the 12 megabiodiversity countries of the world. With only 2.5% of the land area, India already accounts for 7-8% of the recorded species of the world. India is equally rich in traditional and indigenous knowledge, both coded and informal.

2. India is a Party to the Convention on Biological Diversity (1992). The main objectives of the Convention are:

- (i) Conservation of biological diversity;
- (ii) Sustainable use of its components;
- (iii) Fair and equitable sharing of benefits arising out of utilisation of genetic resources.

3. Recognizing the sovereign rights of States to use their own biological resources, the Convention expects the Parties to facilitate access to genetic resources by other Parties for environmentally sound purposes subject to national legislation and on mutually agreed upon terms (Articles 3 and 15). Article 8 (j) of the Convention recognizes contributions of local and indigenous communities to the conservation and sustainable utilisation of biological diversity through traditional knowledge, practices and innovations and provides for equitable sharing of benefits with such people arising from the utilisation of their knowledge, practices and innovations.

4. Biodiversity is a multi-disciplinary subject involving diverse sectoral activities and actions. The stakeholders in biological diversity include the Central Government, State Governments, institutions of local self-government, scientific and technical institutions, experts, non-governmental organisations, industry, etc. One of the major challenges before India lies in adopting an instrument which helps realise the objectives of equitable sharing of benefits enshrined in the Convention on Biological Diversity.

5. After an extensive and intensive consultation process involving the stakeholders, the Central Government has decided to bring a legislation with the following salient features:—

- (i) to regulate access to biological resources of the country with the purpose of securing equitable share in benefits arising out of the use of biological resources; and associated knowledge relating to biological resources;
- (ii) to conserve and sustainably use biological diversity;
- (iii) to respect and protect knowledge of local communities related to biodiversity;
- (iv) to secure sharing of benefits with local people as conservers of biological resources and holders of knowledge and information relating to the use of biological resources;
- (v) to conservation and development of areas important from the standpoint of biological diversity by declaring them as biological diversity heritage sites;
- (vi) protection and rehabilitation of threatened species;
- (vii) involvement of institutions of self-government in the broad scheme of the implementation of the Act through constitution of committees.

6. The proposed legislation primarily addresses the issue concerning access to genetic resources and associated knowledge by foreign individuals, institutions or companies, and equitable sharing of benefits arising out of the use of these resources and knowledge to the country and the people. In order to safeguard the interests of the local people, *vaid*s and

hakims and to allow research by Indian citizens within the country, the following exceptions are proposed:—

(i) Free access to biological resources for use within India for any purpose other than commercial use for Indian people.

(ii) Use of biological resources by *vaid*s and *hakims*.

(iii) Free access to the Indian citizens to use biological resources within the country for research purposes.

(iv) Collaborative research through government sponsored or government approved institutions subject to overall policy guidelines and approval of the Central Government.

7. It is proposed to have National Biodiversity Authority, State Biodiversity Boards and Biodiversity Management Committees.

(a) The National Biodiversity Authority will deal with matters relating to requests for access by foreign individuals, institutions or companies, and all matters relating to transfer of results of research to any foreigner; imposition of terms and conditions to secure equitable sharing of benefits and approval for seeking any form of Intellectual Property Rights (IPRs) in or outside India for an invention based on research or information pertaining to a biological resource obtained from India.

(b) State Biodiversity Boards will deal with matters relating to access by Indians for commercial purposes and restrict any activity which violates the objectives of conservation, sustainable use and equitable sharing of benefits.

(c) Biodiversity Management Committees will be set up by institutions of self-government in their respective areas for conservation, sustainable use, documentation of biodiversity and chronicling of knowledge relating to biodiversity. Biodiversity Management Committees shall be consulted by the National Biodiversity Authority and State Biodiversity Boards on matters related to use of biological resources and associated knowledge within their jurisdiction.

8. It is proposed to set up Biodiversity Funds at Central, State and local levels. The monetary benefits, fees, and royalties received as a result of approvals by National Biodiversity Authority will be deposited in National Biodiversity Fund. The Fund will be used for conservation and development of areas from where resources have been accessed.

9. Normally-traded commodities may be exempted by the Central Government, by notification, and in consultation with the National Biodiversity Authority, from the purview of the proposed legislation.

10. Traditional knowledge is proposed to be protected. It is also proposed that the State Governments notify National Heritage Sites which are important from the standpoint of biodiversity, in consultation with institutions of local self government.

11. The notes on clauses explain in detail the various provisions contained in the Bill.

12. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 20th April, 2000.

T.R. BAALU.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. J-22018/11/2000-CSC (BC) dated 8 May., 2000 from Shri T.R. Baalu, Minister for Environment and Forests to the Secretary-General, Lok Sabha.]

The President, having been informed of the proposed Bill to protect India's rich biodiversity and associated knowledge against unauthorised use by foreign individuals and organisations without sharing the benefits arising out of such use, has given his recommendation for introduction of the Bill under article 117(1) and for consideration of the Bill under article 117(3) of the Constitution.

Notes on Clauses

Clause 1—This clause gives the short title of the Bill, the area of its operation and the date of commencement of the Act and its various provisions. As adequate steps have to be taken for administering the provisions of the proposed legislation, provision has been made that different dates may be appointed for the different provisions of the Act.

Clause 2—This clause contains definition of various expressions used in the Bill, such as "Benefit claimers", "Biological Diversity", "bio-survey and bio-utilisation", "Equitable benefit sharing", "National Biodiversity Authority", "State Biodiversity Board" and "Sustainable use", etc.

Clause 3—This clause specifies that certain persons such as non-Indian citizens, NRIs, body corporate associations or organisations not incorporated/registered in India or registered in India but have non-Indian citizen participation in its share capital or management cannot undertake biodiversity related activities without approval of National Biodiversity Authority.

Clause 4—This clause provides that no person who intends to transfer the results of research relating to biological resources occurring or obtained from India to non-Indian citizens; any body corporate association or organisation; any body corporate registered in India but has non-Indian participation in share capital or management, shall do so without obtaining approval of National Biodiversity Authority. Publication of research papers or dissemination of knowledge through seminars or workshops is exempted provided such publications, etc. are as per the policy guidelines of the Central Government.

Clause 5—Under this clause collaborative research projects are exempted from the provisions of clauses 3 and 4 if such collaborative research projects are approved by the Central Government and are drawn up as per the policy guidelines specified by the Central Government. Collaborative research projects based on agreements concluded before the commencement of this Act are required to make appropriate amendments to conform to the provisions of this Act.

Clause 6—This clause provides that any person seeking any kind of intellectual property right in or outside India for any invention based on any biological research or information on a biological resource obtained from India, is required to obtain prior permission of the National Biodiversity Authority. In case of persons applying for Patents, prior permission of the National Biodiversity Authority is required after the acceptance of the Patent but before sealing of the Patent by the concerned patent authority. It provides for the National Biodiversity Authority to impose for benefit sharing fee or royalty or both or impose conditions for sharing of financial benefits arising out of the commercial utilisation of such rights.

Clause 7—This clause provides that Indian citizens, body corporate, association or organisation registered in India are required to give prior intimation to the State Biodiversity Boards about obtaining biological resources for commercial utilization. However, local people and communities of the area including *vaid*s and *hakim*s who have been practising indigenous medicine are exempted from the provisions of this clause.

Clause 8—This clause provides for the establishment of an Authority to be called 'The National Biodiversity Authority'. The head office of the Authority shall be located at Chennai. The Authority shall consist of a Chairperson, eight *ex officio* members and five non-official members. The Chairperson shall be an eminent person in the field of conservation and sustainable use of biological diversity and in matters relating to equitable sharing of benefits. The *ex officio* members include representatives of the Ministries dealing with Environment and Forests, Agricultural Research and Education, Ocean Development, Agriculture & Cooperation, Indian Systems of Medicine and Homoeopathy, and Tribal

Affairs. The non-official members include specialists and scientists in the field of biological diversity, representatives of industry, conservers and knowledge holders of biological resources.

Clause 9— This clause specifies that the term of office, and service conditions of the non-official members will be laid down in the rules.

Clause 10— This clause specifies that the Chairperson of the Authority shall be the Chief Executive of the Authority. His detailed powers and functions will be laid down in the rules.

Clause 11— This clause lays down the conditions for removing the members from the National Biodiversity Authority.

Clause 12— This clause lays down detailed procedure for convening the meetings of the Authority.

Clause 13— This clause seeks to provide for the appointment of various committees by the Authority for efficient discharge of its duties. One such committee will be on agrobiodiversity.

Clause 14— This clause seeks to provide for the appointment of various officers and employees of the Authority for efficient performance of its functions. It also enables the Central Government to lay down rules governing the method of appointment, salary and other terms and conditions of the officers and employees.

Clause 15— This clause provides that all orders and decisions of the Authority shall be authenticated by the signature of the Chairperson or any member authorised by the National Biodiversity Authority.

Clause 16— This clause enables the Authority to delegate its powers (except the power to settle disputes under section 50 and the power to make regulations under clause 62) by order in writing to the Chairperson or any member or officer of the National Biodiversity Authority subject to such conditions or limitations.

Clause 17— This clause provides that salaries and allowances payable to members, officers and other employees of the National Biodiversity Authority shall be defrayed out of the Consolidated Fund of India.

Clause 18— This clause lays down the detailed functions of the Authority which include granting of approvals for undertaking any activity referred to in clauses 3, 4 and 6, framing guidelines for access and equitable sharing of benefits; advising the Central Government on matters relating to conservation and sustainable use of biological diversity; advise the State Governments in the selection of areas to be notified as heritage sites. This clause also provides that the National Biodiversity Authority may take necessary measures to oppose grant of Intellectual Property Rights in any country outside India on any biological material obtained from India or associated knowledge which is derived from India.

Clause 19— This clause provides for making application to the Authority for undertaking activities referred to in clauses 3, 4 and 6. This clause specifies that after receiving of application, the National Biodiversity Authority shall make an appraisal of the case and either grant approval subject to terms and conditions or reject the application giving reasons.

Clause 20— This clause stipulates that persons granted approvals under section 19 are required to obtain approval by the Authority for third party transfer.

Clause 21— This clause deals with determination of equitable sharing of benefits by the Authority while granting approvals under clauses 19 and 20. It stipulates that the Authority in consultation with local bodies impose terms and conditions for securing equitable sharing of benefits; depositing of monetary benefits into the National Biodiversity Fund except in cases where biological resources and knowledge are accessed from specific individual or group of individuals, in which case the monetary benefit will be directly made to the providers.

Clause 22— This clause provides for the establishment of Biodiversity Boards by the State Governments to be called "State Biodiversity Board". The Board shall consist of a Chairperson, five *ex officio* members representing various departments of the State Governments and five non-official members.

Clause 23— This clause specifies the general functions of the State Biodiversity Board.

Clause 24— This clause provides that the State Biodiversity Board may regulate the activities of Indian citizens, body corporate, organisation or association registered in India, related to obtaining of biological resources for commercial utilisation. Indian citizens, body corporate, association, etc., are required to give prior intimation to State Biodiversity Board about obtaining biological resources for commercial utilization. The State Biodiversity Board, in consultation with local bodies and after making enquiries, restrict such activity if it is contrary to the objectives of conservation or sustainable use of biodiversity or equitable sharing of benefits.

Clause 25— This clause provides that clauses 9 to 17 will apply to State Biodiversity Board with certain modifications.

Clause 26— This clause enables the Central Government to provide grants and loans to the National Biodiversity Authority for the implementation of the various provisions of the proposed legislation after due appropriation by Parliament.

Clause 27— This clause provides for constitution of a National Biodiversity Fund. grants and loans to the Authority, all charges and royalties received by the Authority, etc., shall be credited into this Fund. The Fund shall be utilised for channeling benefits to the benefit claimers, conservation of biological resources and development of areas from where biological resources and knowledge have been accessed.

Clause 28— This clause deals with the preparing of the Annual Report by the National Biodiversity Authority giving full account of its activities including audited statement of accounts.

Clause 29— This clause provides that the accounts of National Biodiversity Authority will be audited by the Comptroller and Auditor General of India and a copy of audited statement of accounts will be furnished to the Central Government.

Clause 30— This clause provides that the Annual Report and Auditors' Report of the National Biodiversity Authority will be laid before the Parliament.

Clause 31— This clause enables the State Governments to provide grants and loans to the State Biodiversity Boards, after due appropriation by the State Legislatures.

Clause 32— This clause provides for constitution of State Biological Diversity Fund. grants or loans to the State Biodiversity Boards, and any grants or loans made by the National Biodiversity Authority and from other sources shall be credited into the State Biodiversity Fund. The Fund shall be utilised for conservation of biological resources, management and conservation of Heritage sites, socio-economic development of areas from where biological resources and knowledge have been accessed, subject to any approval granted by the State Board under clause 24.

Clause 33— This clause deals with the preparing of the Annual Report by the State Biodiversity Boards.

Clause 34— This clause provides that the accounts of the State Biodiversity Board will be audited by the Accountant General of the State and a copy of the audited statement will be furnished to the State Government.

Clause 35— This clause provides that the Annual Report and Auditors' Report of the State Biodiversity Board will be laid before the State Legislature.

Clause 36— Under this clause the Central Government shall develop national strategies, plans and programmes for conservation and sustainable use of biodiversity; as far as

practicable and wherever appropriate integrate the conservation and sustainable use of biodiversity into relevant sectoral or cross-sectoral plans, programmes and policies; take measures— (i) for assessment of environmental impact of projects, wherever necessary, and with public participation where appropriate; and (ii) to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology and endeavour to respect and protect knowledge of local people relating to biodiversity through measures such as registration and *sui generis* system as per the recommendations of the National Biodiversity Authority.

Clause 37— This clause provides that the State Government may, in consultation with the local bodies, notify areas of biodiversity importance as biodiversity heritage sites under this Act; in consultation with the Central Government frame rules for the management and conservation of heritage sites; and framing of schemes for compensating or rehabilitating people economically affected by such notification.

Clause 38— This clause empowers the Central Government to notify threatened species, prohibit or regulate their collection, and take steps to rehabilitate and preserve these species.

Clause 39— This clause provides that the Central Government in consultation with the National Biodiversity Authority may designate institutions as Repositories under this Act for different categories of biological resources; the Repositories to keep in safe custody the biological materials including voucher specimens deposited with them; and that any new taxon discovered shall be notified to the Repositories or any other institution designated for this purpose and its voucher specimen deposited with such Repository or institution.

Clause 40— This clause provides that the Central Government may in consultation with the National Biodiversity Authority exempt, by notification biological resources normally traded as commodities from the provisions of this Act.

Clause 41— This clause stipulates that every local body shall constitute a Biodiversity Management Committee for conservation, sustainable use and documentation of biodiversity; the National Biodiversity Authority and the State Boards will consult the Biodiversity Management Committees while taking any decision relating to the use of biological resources and associated knowledge occurring within their jurisdiction; and the Biodiversity Management Committee may impose collection fees for collecting biological resources from their territory.

Clause 42— This clause enables the State Government to provide grants or loans to Local Biodiversity Funds after due appropriation by the State Legislature.

Clause 43— This clause provides for constitution of a Local Biodiversity Fund in areas where institutions of self-government are functioning. Grants or loans made by the National Authority, any grants or loans made by the State Biodiversity Boards, collection fees received by the Biodiversity Management Committee, and other sources shall be credited into such Fund.

Clause 44— This clause provides that the Local Biodiversity Fund shall be used for conservation of biodiversity in the jurisdiction of the local self-governments.

Clause 45— This clause provides for preparing the Annual Report of the Biodiversity Management Committee and accounts for submission to the State Governments.

Clause 46— This clause provides that the accounts of the Local Biodiversity Fund shall be maintained and audited in consultation with the Accountant General of the State.

Clause 47— This clause provides that the Annual Report and the Auditors' Report of the Local Biodiversity fund will be laid before the State Legislature.

Clause 48— This clause stipulates that the National Biodiversity Authority in discharge of its functions and duties shall be bound by the directions of the Central Government.

Clause 49 — This clause stipulates that the State Biodiversity Board in discharge of its functions and duties shall be bound by the directions of the State Government.

Clause 50 — This clause sets out the detailed procedure for settlement of disputes between State Biodiversity Boards; proceedings before the National Authority shall be deemed to be a judicial proceeding for the purpose of section 196 of the Indian Penal Code and the National Authority shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

Clause 51 — This clause states that the members, officers and other employees of the National Authority or State Biodiversity Boards shall be deemed to be public servants.

Clause 52 — This clause provides for protection of action taken in good faith by the Central Government or the State Government, officers and employees of the said governments, members, officers or employees of the National Biodiversity Authority or the State Biodiversity Board, from any suit, prosecution or other legal proceedings.

Clause 53 — This clause provides for penalties for contravening clauses 3, 4 and 6. The penalty will be imprisonment for a term which may extend to 5 years or fine which may extend to Rs. 10 lakhs or both; and that penalty for contravention of the provisions of clause (7) and sub-clause (1) of clause 24 shall be imprisonment for a term which may extend to three years or fine which may extend to Rs. 5 lakhs or both.

Clause 54 — This clause provides for penalty for contravention of directions or orders of the Central Government, the State Government, the National Biodiversity Authority and the State Biodiversity Boards.

Clause 55 — This clause contains provisions for offences by companies. This clause seeks to provide that where a person committing offence is a company, every person responsible in the company for the conduct of its business will be liable; where a person accused proves that the offence was committed without his knowledge he will not be liable. However, where it is proved that an offence has been committed with the consent or connivance or is attributable to the neglect of any director, manager, secretary or any other officer of the company, he shall be deemed to be guilty of the offence.

Clause 56 — This clause provides that the offences under this Act shall be cognizable and non-bailable.

Clause 57 — This clause states that the provisions of the proposed legislation shall have overriding effect on all other laws for the time being in force or anything inconsistent with the proposed legislation contained in any instrument.

Clause 58 — This clause stipulates that the Central Government may give directions to the State Governments for execution any of the provisions of this Act.

Clause 59 — This clause provides that no court shall take cognizance of any offence under this Act or rules/regulations made thereunder except for complaints made by National Biodiversity Authority or State Biodiversity Boards.

Clause 60 — This clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation; enumerates the various matters in respect of which such rules may be made; and seeks to provide that every rule made shall be laid before Parliament.

Clause 61 — This clause empowers the State Governments to make rules to carry out the provisions of the proposed legislation, enumerates the various matters in respect of which such rules may be made, and seeks to provide that every rule made shall be laid before the State Legislature.

Clause 62 — This clause empowers the National Biodiversity Authority to make regulations consistent with the provisions of the proposed legislation and the rules made

thereunder. Such regulations are required to be made with the previous approval of the Central Government and by notification in the Official Gazette.

Clause 63 — This clause empowers the Central Government to remove difficulties which may arise in giving effect to the provisions of the proposed legislation by order published in the Official Gazette. Such order shall not be inconsistent with the provisions of the proposed legislation. This power can be exercised only within two years from the commencement of the proposed legislation. Every such order shall be required to be laid before Parliament.

FINANCIAL MEMORANDUM

Clause 8 provides for setting up of a Statutory Authority to be known as the National Biodiversity Authority at Chennai. The Authority may decide in the future to establish offices in other places in India as envisaged under clause 8(3) of the Bill. The recurring expenditure towards salary, allowances and other expenditure relating to Chairperson, members and other officers and employees of the Authority appointed under Clause 14 will be of the order of Rs. 10 lakhs per annum. The other recurring expenditure by way of rent, maintenance, meetings, office expenses and contingency, etc. will be of the order of Rs. 80 lakhs per annum. Non-recurring expenditure on establishment, office equipment, vehicles, etc. will be approximately of the order of Rs. 50 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 60 of the Bill empowers the Central Government to make rules by notification in the official Gazette for carrying out the purposes of the proposed legislation. Sub-clause (2) of that clause enumerates the matters with respect to which rules may be made under the proposed legislation. These matters *inter alia* relate to the terms of office; the salary and allowances and conditions of the Chairperson and members of the National Biodiversity Authority; powers and duties of Chairperson, transaction of business of the National Biodiversity Authority; form of application and payment of fees for undertaking certain activities; the procedure for adjudication, etc.

2. Clause 61 of the Bill empowers the State Governments to make rules by notification in the official Gazette for carrying out purposes of this proposed legislation. Sub-clause (2) of that clause enumerates the various matters with respect to which rules may be made under this legislation. These matters *inter alia* relate to the form in which the prior intimation shall be given; rules for the management and conservation of heritage sites; management of the Local Biodiversity Fund, etc.

3. Clause 62 of the Bill empowers the National Biodiversity Authority to make regulations with the previous approval of the Central Government by notification in the Official Gazette.

4. The rules and regulations made under the proposed legislation shall be required to be laid before Parliament.

5. The aforesaid matters in respect of which rules, regulations may be made or framed relate to matters of procedure or administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 91 OF 2000

A Bill to repeal the Iron and Steel Companies Amalgamation Act, 1952 and the Indian Iron and Steel Company (Taking Over of Management) Act, 1972.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Iron and Steel Companies (Amalgamation and Takeover Laws) Repeal Act, 2000.

Repeal of Acts
79 of 1952 and
50 of 1972.

2. The Iron and Steel Companies Amalgamation Act, 1952 and the Indian Iron and Steel Company (Taking Over of Management) Act, 1972 are hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Iron and Steel Companies Amalgamation Act, 1952 was enacted with the sole purpose of merger of Steel Corporation of Bengal Limited with the Indian Iron and Steel Company Limited and for facilitating dissolution of the Steel Corporation of Bengal Limited. The Act has served its purpose and there is now no need for retaining this Act on the Statute book.

2. The Indian Iron and Steel Company (Taking Over of Management) Act, 1972 was enacted to take over the management of Indian Iron and Steel Company in view of the steady decline and deterioration in production and overall situation, for a period of two years from 14th July, 1972 which was extended to five years. This period of five years also expired on 15th July, 1977. In the meanwhile, the Indian Iron and Steel Company (Acquisition of Shares) Act, 1976 was passed by Parliament by which the company was taken over by the Government of India and subsequently under the provisions of the Public Sector Iron and Steel Companies (Restructuring) and Miscellaneous Provisions Act, 1978 the Indian Iron and Steel Company has been restructured by making it a subsidiary of the Steel Authority of India Limited. As the Indian Iron and Steel Company (Taking Over of Management) Act, 1972 has served its purpose, it is considered necessary to repeal the Act.

3. The Commission on Review of the Administrative Laws set up by the Central Government, *inter alia*, to review the administrative laws and for recommending follow-up action thereafter for repeal and amendment of the laws has also recommended the repeal of the Iron and Steel Companies Amalgamation Act, 1952 and the Indian Iron and Steel Company (Taking Over of Management) Act, 1972.

4. The Bill seeks to repeal the aforesaid Acts.

NEW DELHI;

DILIP RAY.

The 28th April, 2000.

BILL No. 94 OF 2000

A Bill to amend the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Act, 2000.

(2) Save as otherwise provided in this Act, it shall come into force at once.

Amendment of section 1.

2. In the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 (hereinafter referred to as the principal Act), in section 1, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted on and from the 5th day of February, 1999, namely:—

5 of 1999.

“(2) It shall be deemed to have come into force on the 5th day of February, 1999.”.

Substitution of new section for section 2.

3. For section 2 of the principal Act, the following section shall be substituted, namely:—

"2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "recognised group" means,—

(i) in relation to the Council of States, every party which has a strength of not less than fifteen members and not more than twenty-four members in the Council;

(ii) in relation to the House of the People, every party which has a strength of not less than thirty members and not more than fifty-four members in the House;

(b) "recognised party" means,—

(i) in relation to the Council of States, every party which has a strength of not less than twenty-five members in the Council;

(ii) in relation to the House of the People, every party which has a strength of not less than fifty-five members in the House."

4. For section 3 of the principal Act, the following section shall be substituted, namely :—

Substitution of new section for section 3.

"3. Subject to any rules made in this behalf by the Central Government, each leader, deputy leader and each Chief Whip of a recognised group and a recognised party shall be entitled to telephone and secretarial facilities:

Facilities to the Leaders and Chief Whips of recognised groups and parties.

Provided that such facilities shall not be provided to such leader, deputy leader or Chief Whip, as the case may be, who—

58 of 1952.

(i) holds an office of Minister as defined in section 2 of the Salaries and Allowances of Ministers Act, 1952;

33 of 1977.

(ii) holds an office of the Leader of the Opposition as defined in section 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977; or

(iii) is entitled to similar telephone and secretarial facilities by virtue of holding any office of, or representation in, a Parliamentary Committee or other Committee, Council, Board, Commission or other body set up by the Government; or

(iv) is entitled to similar telephone and secretarial facilities provided to him in any other capacity by the Government or a local authority or Corporation owned or controlled by the Government or any local authority."

5. In the Parliament (Prevention of Disqualification) Act, 1959, in section 3, in clause (ac), for the words "each leader", the words "each leader and each deputy leader" shall be substituted.

Amendment of section 3 of Act 10 of 1959.

6. The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Telephone and Secretarial Facilities) Rules, 1999 published in the Gazette of India, Extraordinary, dated the 5th February, 1999 with the notification of the Government of India in the Ministry of Parliamentary Affairs No. G.S.R. 66(E), dated the 4th February, 1999 (hereinafter referred to as the said Rules) shall be deemed to have and to have always had effect on and from the 5th day of February, 1999 as if the amendments made by section 2 had been in force at all material times and accordingly any action taken or anything done or purported to have been taken or done under the said Rules during the period commencing on and from the 5th day of February, 1999 and ending with the day on which the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Amendment Act, 2000 receives the assent of the President shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the said Rules had been in force at all material times.

Validation of rules and certain actions.

STATEMENT OF OBJECTS AND REASONS

The Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 (5 of 1999) contains provisions for extending telephone and secretarial facilities to the leaders and chief whips of recognised parties and groups in Parliament.

2. Section 2 of the Act defines "recognised group" and "recognised party" in relation to the Council of States and the House of the People as such groups and parties which are recognised for the purposes of the Act by the Chairman of the Council of States and the Speaker of the House of the people under the rules regulating the procedure of the respective Houses.

3. In order to make the definition of "recognised group" and "recognised party" more clear, it is proposed to specify numerical strength required for recognition as such "recognised group" and "recognised party" for the purposes of the Act. Accordingly, it is proposed to amend section 2 of the Act to provide that a recognised party shall have a strength of not less than fifty-five members being ten per cent of the total membership rounded off to the nearest higher number in respect of the Lok Sabha and not less than twenty-five members being ten per cent of the total membership rounded off to the nearest higher number in respect of the Rajya Sabha. Likewise a recognised group shall have a strength of not less than thirty members and not more than fifty-four members in respect of the Lok Sabha and not less than fifteen members and not more than twenty-four members in respect of the Rajya Sabha.

4. There has been persistent demand that the telephone and secretarial facilities under the Act, presently admissible only to the leaders and chief whips of the recognised parties and groups in Parliament, may also be extended to the deputy leaders of those parties and groups.

5. After due consideration of the matter, it is proposed to extend the aforesaid telephone and secretarial facilities to the deputy leaders of the recognised parties and groups in Parliament also.

6. Section 3 of the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998 provides that "Leaders of Opposition" as defined in section 2 of the Salary and Allowances of Leaders of Opposition in Parliament Act, 1977 would not be extended the telephone and secretarial facilities under the Act. This was done in order to avoid duplication of extension of the facilities. It is now proposed similarly not to extend the telephone and secretarial facilities to those leaders, deputy leaders and chief whips of the recognised parties and groups who may be entitled to similar telephone and secretarial facilities by virtue of their holding the post of a Minister or representation on a parliamentary committee or other committee, council, boards, commissions or other bodies set up either by the Central or the State Governments or have in any other capacity been provided with similar telephone and secretarial facilities by the Government or a local authority or a corporation owned or controlled by the Government or any local authority.

7. It is also proposed to amend the Parliament (Prevention of Disqualification) Act, 1959 with a view to incorporating therein the office of the deputy leader of a recognised party or a recognised group so as to ensure that they are not disqualified from the membership of Parliament on account of their entitlement to the proposed facilities.

8. The facilities extended under the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Telephone and Secretarial Facilities) Rules, 1999 were published on the 5th February, 1999 in the Gazette of India and the facilities under the said Rules are being availed by the leaders and chief whips of some of the recognised parties or groups from the said date. It is, therefore, proposed to give retrospective effect to the provisions of the said Act under which the said rules were purported to have been framed and to validate the action taken under the said rules.

9. The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to extend telephone and secretarial facilities to the deputy leaders of the recognised parties and recognised groups in Parliament by substituting proposed new section 3 for section 3 of the Leaders and Chief Whips of Recognised Parties and Groups in Parliament (Facilities) Act, 1998.

2. The financial implications of the above proposal cannot be estimated at this stage.

3. Proviso to the proposed new section 3 of the Bill provides that the telephone and secretarial facilities would not be extended to those leaders, deputy leaders and Chief Whips who may be entitled to similar telephone and secretarial facilities by virtue of their holding the post of a Minister or representation on a Parliamentary Committee or other official source.

4. The above proposal would mean some financial saving which too is difficult to be estimated.

5. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

G. C. MALHOTRA,
Secretary-General.

